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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/531,102	03/17/2000	Robert Giannini	JARB.004PA	5258
40581	7590	09/30/2005	EXAMINER	
CRAWFORD MAUNU PLLC 1270 NORTHLAND DRIVE, SUITE 390 ST. PAUL, MN 55120			KYLE, CHARLES R	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 09/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/531,102

Applicant(s)

GIANNINI ET AL.

Examiner

Charles Kyle

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 17-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Examiner's Note*

The finality of the prior Office Action is withdrawn and prosecution is hereby reopened.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 17 and 19-22** are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,016,504 *Arnold et al*, already of record, in view of US 5,537,211 *Dial*.

**As to Claim 17**, *Arnold* discloses the invention substantially as claimed, including in a system for comparison of multiple apparel articles, elements of:

an on-line viewer site (Fig. 1B, ele. 1B12, 1B13 and 1B14); and

a computer-driven web-linking engine (Col. 8, line 8 to Col. 11, line 33) configured and arranged to display a first colored apparel article selected by an on-line viewer from the on-line viewer site (Fig. 1B, ele. 1B13, Shirt) for display with a second colored apparel article selected by an on-line viewer from the on-line viewer site (Fig. 1B, ele. 1B14, Pants).

*Arnold* does not specifically disclose using a color matching criterion to determine whether the first colored apparel article color matches the second colored apparel article color.

Art Unit: 3624

*Dial* discloses this limitation at Col. 6, lines 35-48. In this instance, a first colored apparel article (e.g., belt) is color matched to a second colored apparel article (e.g., a dress). It would have been obvious to one of ordinary skill in that art at the time of the invention to include the color matching feature of *Dial* in the apparel article comparison system of *Arnold* because this would provide a smallest difference between the colors of the two apparel articles. This motivation is specifically set out by *Dial* at Col. 6, lines 49-61, and repeated below:

*The metric used by the present invention to determine an appropriate wearable measures the difference in color between an object of interest and a wearable in a database. Small values of the metric indicate a close color match whereas large values indicate a poor match. The metric characterizes the color distance from an object of interest to each available wearable. As described above, the object may be skin and the wearable a cosmetic, or the object may be an article of clothing and the wearable another article of clothing. In general, the object may any object whose color is measured and the wearable any of a selection from which to find the best color match. The best match wearable is the selection characterized by the smallest value of the metric.*

**Concerning Claim 19**, *Arnold* discloses a first colored apparel article retrieved from a first store (Fig. 1B, ele. 1B20, Haberdasher Co.) and a second colored apparel article retrieved from a second store (Fig. 1B, ele. 1B30, Mad Hatter Co.)

**Concerning Claim 20**, *Arnold* discloses a first colored apparel article retrieved from a first store (Fig. 1B, ele. 1B20, Haberdasher Co., Pants) and a second colored apparel article retrieved from the same store (Fig. 1B, ele. 1B20, Haberdasher Co., Shirt)

**With respect to Claim 21**, *Arnold* discloses that at least one of the first and second colored apparel articles is provided by a retail store (Fig. 1B, ele. 1B20, Haberdasher Co., Pants) and that the web-linking engine is independent of the retail store (Fig. 1B, ele. 1B10, ACME Cyberstore).

**Regarding Claim 22**, see the discussion of Claims 19 and 21.

Art Unit: 3624

**Claim 18** is rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,016,504 *Arnold et al*, already of record, in view of US 5,537,211 *Dial* and further in view of US 5,930,769 *Rose*, already of record.

With respect to **Claim 18**, *Arnold* discloses the invention substantially as claimed. See the discussion of Claim 17. *Arnold* does not disclose an image corresponding to a structure dressed in apparel articles. *Rose* discloses this limitation at Col. 7, lines 44-67, particularly lines 58-62. It would have been obvious to one of ordinary skill in that art at the time of the invention to modify *Arnold* to include the image corresponding to a structure dressed in apparel articles (mannequin) of *Rose* because this would show a customer how selected apparel articles would fit and look. See *Rose* at Col. 7, lines 8-62 for this motivation.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Kyle whose telephone number is (571) 272-6746. The examiner can normally be reached on 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3624

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

crk  
September 27, 2005

**Primary Examiner**  
**Charles Kyle**  
**Au 3624**

A handwritten signature in black ink, appearing to read "Charles R. Kyle", with a stylized flourish at the end.